



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 35 OF 2025

**BHAUSAHEB SHANKARRAO ZHINZURDE
VERSUS
YOGESH NISHIKANT THAWARE**

...

Advocate for Applicant : Mr. Shaikh Tarek Mobin H.
Advocate for Respondent : Mr. Rajendraa Deshmukkh, Senior Advocate, a/w
Mr. Jay Veer and Mr. Nilanjan Pande,

CORAM : SHAILESH P BRAHME, J.

DATE : 13.01.2026

PER COURT :

Heard both sides.

2. The applicant is challenging order dated 18.10.2025 below Exh. 10 passed by the Trial Court refusing to reject plaint of Special Civil Suit No. 211/2022. The respondent has filed the suit for damages due to defamatory complaint dated 15.03.2022 lodged by defendant with Assistant Registrar Vaijapur, imputing allegations against the respondent.

3. The plaint is sought to be rejected on the ground that there was no cause of action and the suit was premature one and filing of complaint by the defendant would not stand alone a ground to sue for damages unless it is proved to be frivolous. By impugned order, the application has been rejected.

4. The submissions are made by the counsel for the applicant on above line. Additionally it is submitted that the applicant did not publicise the allegations so as to damage the reputation of the plaintiff. It is submitted that even the report dated 01.07.2022 which is disclosed during course of hearing has not been made public. It is contended that the suit amounts to

thwarting of the complaint which is resorted to ventilate the grievance against the plaintiff. It is pointed out that vide order dated 29.11.2022 Criminal Misc. Appln. No. 359/2022 was allowed issuing directions under Section 156(3) of the Code of Criminal Procedure to conduct investigation.

5. Learned Senior Counsel Mr. Deshmukkh points out say at Exh. 13 to application Exh. 10 to show that after having enquired into the allegations of the complaint dated 15.03.2022 when no substance was found by the competent authority which was recorded in the enquiry report, the suit was filed for damages. It is submitted that offence bearing Crime No. 270/2022 was registered against Nishikant Thaware and Chandrakant Zinjurde and not against plaintiff. Hence the investigation of the criminal case is not an impediment to sue defendant for damages. It is further submitted that no interference is called for in the impugned order.

6. The respondent has filed Special Civil Suit No. 211/2022 on 20.08.2022 stating cause of action as written complaint dated 15.03.2022 filed by defendant to Assistant Registrar imputing the reputation of the plaintiff, his father and other family members. In paragraph nos. 2, 3 and 7 the cause of action is mentioned. The respondent's say at Exh. 13 discloses that enquiry was conducted into the allegations and no substance was found by the competent authority. A report to that effect was submitted on 01.07.2022. In the teeth of the report, it cannot be concluded at this moment that the suit is frivolous. It can be decided during the course of full fledged trial.

7. In Criminal Misc. Appln. No. 359/2022 directions were issued to conduct investigation and to submit report. Final report of investigation discloses allegations against Nishikant Thaware and Chandrakant Namdeo Zinjurde and not against the plaintiff. Thus, there is no complaint pending before the police or the competent authority so as to wait for logical conclusions.

8. The rejection of plaint is a drastic stage and only when a case is made out under Order VII Rule 11 of the CPC and it is found that suit is vexatious, then recourse can be had for rejection of the plaint. In the present case, facts in issue are required to be gone into during the trial. I find no reason to apprehend that the criminal action taken against guilty person at the instance of defendant would be thwarted because of the suit for damages.

9. The issue pertaining to publicising of the imputation against plaintiff or their repercussion can be dealt with during the course of trial. There is no need to decide as to whether making complaint to competent authority would amount to publicising the imputations on the reputation of the plaintiff, at this stage.

8. The applicant has relied on the judgment of **Laxman Jairam Malvankar Vs. Reshma Ramesh Narvekar and anr.; 2012 SCC Online Bom 747**. In that case defendant no. 1 had lodged complaint with the police station against plaintiff and those allegations were published in the news paper by other defendants. The suit was filed for damages, which was dismissed and thereafter decree was confirmed. Second Appeal was also dismissed by the High Court. The facts are distinguishable from the case at hand. After full fledged trial, courts decided the suit for damages. The parameters for enquiry under Order VII Rule 11 of the CPC are different. This judgment will not help the applicant.

9. Further reliance is placed on **Chander Kanta Mangotra wife of Sh. Janak Raj and others Vs. Janak Raj son of Sh. Gain Chand and another; 2012 SCC OnLine P&H 24348**. The facts in that case are also distinguishable. It was not arising out of the order passed in application under Order VII Rule 11 of the Code of Civil Procedure. No benefit can be given to the applicant.

10. In the matter of **Crop Care Foundation of India Vs. Rajasthan Patrika (Pvt.) Ltd. And others; MANU/DE/3251/2009**, the suit for defamation was

argued to be not maintainable because the plaintiff was an association of various firms, companies and individuals. It was not a determinate body. The parameters for civil remedy against defamation as stated in paragraph no. 15 can be gone into during course of trial. I have already recorded that whether defendant has published statement against the plaintiff would be considered at the trial. This judgment also will not help the applicant.

11. Further reliance is placed on the judgment of **Mahadev I. Todale Vs. Frankfinn Aviation Services Pvt. Ltd. And others; 242 (2017) DLT 273**. In that case, the deletion of the name of the defendant from the suit for recovery of damages for defamation was under consideration. In the context of those facts, it was recorded that once a person put criminal law into motion other party cannot lodge and bring out suit for defamation so as to stop the criminal proceedings. In the case at hand the criminal proceedings are initiated against father of the plaintiff and other person. I have already observed that those proceedings cannot be impediment in prosecuting the suit.

12. I find no substance in the submissions of the applicant. The Civil Revision Application is rejected.

(SHAILESH P. BRAHME, J.)

mkd/-